In addition to her responsibilities at AT&T, Di Martino is a member of the Council of Foreign Relations and the Conference Board; serves on the Executive Committee of the National Council of La Raza; is the Vice-Chair of the Congressional Hispanic Caucus; the National Hispanic Corporate Council; the Cuban American National Council; the National Association of Latino Elected and Appointed Officials; the U.S. Senate Republic Task Force; and is a Presidential Appointee to the USO World Board of Governors. In 1982, Di Martino was appointed by President Reagan as U.S. Ambassador to the UNICEF Executive Board. As head of the U.S. Delegation, she represented the interest of the U.S. and influenced policy regarding the relationship between the U.S. and UNICEF.

Rita Di Martino has also been a pioneer of women's rights. She has been a first in many places where women, especially Hispanics, had not been able to conquer the barriers imposed by society. Recently, the Mexican American Women's National Association [MANA] established the Rita Di Martino Scholarship in Communication in recognition of her many accomplishments. The scholarship will be given to Hispanic women that excel in their professions and at the same time have a strong commitment for the betterment of their communities.

I ask my colleagues to join me in honoring a remarkable woman and a true leader. Individuals like her serve as true role models for our future generations.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

SPEECH OF

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 7, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes:

Mr. NETHERCUTT. Mr. Chairman, I rise in support of H.R. 2126, the 1996 Department of Defense appropriations bill. As a member of the subcommittee and committee which crafted this bipartisan bill, I believe it represents a revitalization of our national security by this Congress.

I want to address a misleading argument that is often made in media reports and in this Chamber. Some people try to criticize this bill by claiming it funds items that the Pentagon didn't even ask for. In fact, as a part of the executive branch, the Department of Defense is asked to confirm the unlikely by saying that the Federal Government can provide for our defense needs with President Clinton's budget plan. The Department of Defense did not ask for everything it needs, even after 10 straight years of cuts, because the President's budget was simply insufficient. The modest increases in defense spending provided by the House budget resolution will help bridge the gap between America's military goals and commitments and the money the administration budgeted for defense.

Many of the big-ticket purchases in this bill have received a lot of discussion, but I want to draw attention to some of the less noticeable needs that are met by this bill.

This bill funds a critical Army need for trucks to replace 2½-ton trucks that are an average of 25 years old. Would you trust your life in wartime to a 1970 vehicle? Our Army troops are forced to do just that by the administration budget.

This bill increases procurement of equipment for the Reserve Component Automation System. This system will increase readiness by enabling the Army Reserve and National Guard to respond to a crisis in substantially less time than the current, manual process.

This bill helps replace gas-guzzling, air-polluting engines in Air National Guard and Air Reserve tanker refuelers that are expected to be used until the year 2020. In the long run, these engine upgrades will make our refuelers more efficient, cleaner, and more cost-efficient.

The list of items goes on and on: improved laser systems for the Army Reserve, C–9 cargo door repairs for the Navy Reserve, and auxiliary power units for Air Force KC–135's. This bill funds many items the Pentagon needs and was not allowed to request because, although President Clinton's defense budget was not part of a plan to balance the budget, the defense budget was supposed to continue to shrink drastically.

I support this bill because it is the bipartisan product of a committee that did a good job of using available funds to provide for many of the real needs of the Department of Defense. Adequately providing for the national security and vital interests of the United States is one of the most important things this Congress and this Government can do. I urge my colleagues to vote for this important bill.

THE FEDERAL THRIFT SAVINGS PLAN ENHANCEMENT ACT OF 1995

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1995

Mrs. MORELLA. Mr. Speaker, today I am introducing the Federal Thrift Savings Plan Enhancement Act of 1995. The bill will authorize the addition of a Small Capitalization Stock Index Investment Fund and International Stock Index Fund to the investments available under the Federal Thrift Savings Plan (TSP). These stock funds will be linked to the Wilshire 4500, Wilshire 5000 index minus the 500 stocks held in the S&P 500 index, and the Morgan Stanley EAFE Indices, respectively.

By adding these two funds to the Federal employees' retirement investment portfolios, it potentially will increase their investment earnings for retirement. The bill would also empower Federal workers to take more active and personal responsibility for their retirement. This is a theme that the private sector has embraced with much success, and its integration into the Federal culture has considerable value.

The addition of the two funds would cost taxpayers nothing, because the contributions to the funds would come from the discretionary income of Federal workers. At the same time, it would give Federal workers retirement investment options that are increasingly being made available to their private sector counterparts.

In offering this bill, I envision a more flexible and attractive investment policy that will provide prudent and tested investments suitable for accumulating enough funds for a long and happy retirement. If there is one major goal in introducing this bill, it is to increase the likelihood of a quality retirement life.

The current Federal TSP has three investment funds: the Government Securities Investment Fund (G Fund); the Common Stock Index Investment Fund (C Fund); and the Fixed Income Investment Fund (F Fund). These funds are passive investments, tracking a broad index, and do not have a negative effect on the budget. By linking the Small Capitalization Stock Index Investment Fund with the Common Stock Investment Fund, the legislation would open up virtually the entire U.S. Stock Market to the TSP. Likewise, by adding the International Stock Index Investment Fund, it would allow Federal workers to capitalize on approximately 58 percent of the world market.

Over the past decade, capitalizing on these two investment opportunities would have increased the earnings of participants. In fact, the Wilshire 4500 has outperformed the S&P 500 in 12 out of the last 20 years, while generally moving in the same direction as the S&P 500. At the same time, the EAFE has also outperformed the S&P 500 in 11 out of the past 20 years. Over these two decades, adding these two funds to an equally distributed TSP would have produced the highest annual return of 12.8 percent with a 10.4 percent standard deviation.

The addition of these two funds does not come without risk. These funds are more volatile than the C Fund, which currently is the most volatile fund in the TSP. However, experts have noted that the right amount of diversification can actually negate investment risk. For instance, when an EAFE index fund investment is added to a C Fund investment, the volatility of the combined investment actually decreases.

The bill also includes a provision that would allow Federal workers to increase the amount they can contribute to the TSP, without altering the current matching formula. My goal is to provide Federal workers the flexibility to increase their contribution levels to the maximum allowed by IRS laws. The Federal workers in my district as well as across the country overwhelmingly support this provision. Many see it as an opportunity to offset potential changes to the retirement system. Support for the increase was also echoed by Vincent Sombrotto, president of the National Association of Letter Carriers [NALC] at a hearing held last year. Mr. Sombrotto stated that ''Letter carriers throughout the Nation understand the great importance of saving for their retirement. In fact, they would like to do more to ensure their financial security.'' He further stated that delegates at the NALC Biennial Convention supported legislation to allow both FERS and CSRS employees to contribute more to the Federal TSP.

There is also another benefit to increasing the contribution limit. By increasing the money going into funds, this could increase the available investment capital for the Nation's economy. If this becomes the case, this is clearly a ''win-win'' situation for the country and Federal workers.

There, however, is the potential that this provision could impact the revenue base since employee contributions are tax deferred. I

have asked the Joint Committee on Taxation to perform an analysis outlining any potential negative impact to the revenue base. I am committed to an increase, but not at the expense of the revenue base. Therefore, the actual amount of the percentage increase will depend upon the Joint Tax Committee's analysis. This will allow the cosponsors of the bill to support it with a clear fiscal conscience.

As I introduce this bill, I hope that we can help others view their retirement years as a new beginning by providing the framework to get there.

EXEMPT ORGANIZATION REFORM ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 12, 1995

Mr. STARK. Mr. Speaker, today my colleague, Mr. AMO HOUGHTON, and I will introduce the Exempt Organization Reform Act of 1995. This bill reforms three provisions of exempt organization law. The bill would first create a category of transactions that would be considered self-dealing because of insiders involved in a transfer of 501(c)(3) or 501(c)(4) organization assets; second, clarify that private inurement prohibitions apply to 501(c)(4) organizations; and third, impose intermediate sanctions on both private inurement and self-dealing transactions.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax religious, charitable, educational and certain other organizations that meet statutory and regulatory requirements. A primary requirement for tax-exempt organizations is that the organization's net earnings may not inure to the benefit of any private shareholder or individual, and the organization may not be organized or operated for the benefit of private rather than public interests.

Under current law, the only sanction available to the IRS to combat private inurement is revocation of the organization's exempt status. Revoking an organization's tax exemption is a severe penalty, which in many cases penalizes the wrong parties—the intended beneficiaries of its charitable work and the local community—while leaving untouched the insiders or other private parties who benefited from the diversion of the organization's assets and/or income. The IRS rarely imposes this sanction.

Since 1950, Congress has been concerned with problems of self-dealing between private foundations and insiders, and as recently as 1993 and 1994, the House Ways and Means Subcommittee on Oversight held public hearings that focused on compliance by public charities with the private inurement and private benefit prohibitions. Evidence presented at the oversight hearings documented numerous abuses of these prohibitions by a number of public charities. At the Oversight hearings, the IRS established a need for a wider range of enforcement tools—sanctions that do not require revocation of exempt status for violations of the private inurement and private benefit prohibitions.

Problems of insiders inappropriately benefiting from a tax exempt entity are all too common among nonprofit entities. The following examples illustrate transactions in which individuals have enriched themselves at the public's expense while nonprofit organizations have been looted.

An exempt 501(c)(3) health care organization operated a clinic at which the chief executive officer received total compensation in excess of $1 million. In addition, the organization made substantial payments for his personal expenses. The organization had sold its charitable assets and was purchasing physicians' private medical practices, often at more than fair market value.

An exempt University gave its president a significant compensation package, including salary, deferred compensation, expense accounts and loans—many of which were non interest bearing. He also received the use of an expensive residence whose maintenance costs, including maid service, were paid by the University.

A public charity provided assistance to the poor. A principal officer of the organization, along with relatives, used its funds to pay for personal expenses such as leasing of vehicles, educational expenses, vacations, home improvements, and rental of resort property.

An exempt organization headed by a television evangelist raised large sums of money through fraudulent or misleading fundraising. Only a small part of the funds raised was used for charitable purposes. The organization paid the personal expenses of the officers and controlling individuals.

Television evangelist Pat Robertson, chairman of Christian Broadcasting Network [CBN], and his son Timothy, turned a $150,000 investment into stock worth $90 million by the 1992 sale to the public of cable TV stock they had originally bought from CBN.

This story is complicated, with twists and turns that often exist in self-dealing and private inurement cases. A cable TV programming company, The Family Channel, was started in 1977 as a division of the nonprofit CBN and was financed with charitable donations of viewers. CBN wanted to sell the Family Channel in 1989, partly because the Family Channel was so lucrative that it jeopardized the tax exempt status of the CBN—IRS rules require charities to receive their revenues more from charitable activities than from business activities. The Family Channel reportedly generated $17.5 million in just 9 months of 1989.

For the purchase in 1990, Pat and Tim Robertson formed a for-profit company, the International Family Entertainment, Inc., [IFE] with a minority shareholder and bought the Family Channel. The Robertsons put up $150,000—2.22 cents a share—and the minority shareholder put up $22 million.

IFE/Family Channel went public at $15 a share in 1992, and the Robertsons' $150,000 investment became worth $90 million. They retained 69-percent control of IFE/Family Channel. The Family Channel continues to be a cash cow. Pat Robertson's 1992 salary and bonus from IFE/Family Channel amounted to $390,611. His son Tim received $465,731 in 1992 alone. All the while, Robertson remains chairman of the nonprofit CBN that created the lucrative family channel.

The 1993 and 1994 Oversight hearings established the need for sanctions that fall short of revocation of exempt status for violations of private inurement and private benefit prohibitions. The health care bills reported in 1994 by the House Ways and Means and Senate Finance Committees both incorporated provisions on intermediate sanctions. The bipartisan effort in this area has been demonstrated time and time again—in hearings, in committee reports, and in proposed legislation. When unable to pass intermediate sanction legislation during health reform last year, a provision on intermediate sanctions was offered in the Ways and Means Committee's GATT bill, however it was not accepted by the Senate Finance Committee.

The evidence of abuse in this area is compelling. We should move quickly to pass this legislation before insiders take further advantage of organization's tax exempt status.

EXPLANATION OF BILL: PRESENT LAW

Under the Internal Revenue Code (the ''Code''), a tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3) are classified as either private foundations or public charities. Organizations described in section 501(c)(4) also must be operated on a non-profit basis, although there is no specific statutory rule prohibiting the net earnings of such an organization from inuring the benefit of shareholder or individual.

Under the Code, penalty excise taxes may be imposed on private foundations, their managers, and certain disqualified persons for engaging in certain prohibited transactions (such as so-called ''self-dealing'' and ''taxable expenditure'' transactions, see sections 4941 and 4945). In addition, under present law, penalty excise taxes may be imposed when a public charity makes an improper political expenditure (section 4955). However, the Code generally does not provide for the imposition of penalty excise taxes in cases where a public charity (or section 501(c)(4) organization) engages in a transaction that results in private inurement. In such cases, the only sanction that may be imposed under the Code is revocation of the organization's tax-exempt status.

I. EXCISE TAX ON EXCESS BENEFIT TRANSACTIONS

A. The bill would amend the Code to impose penalty excise taxes equal to 25 percent of the excess benefit as an intermediate sanction in cases where a public charity described in section 501(c)(3) (such as a hospital) or organization described in section 501(c)(4) such as an HMO) engages in a ''self-dealing'' transaction with certain disqualified persons. In the case where an organizational manager knows of such a transaction, an additional tax equal to 10 percent of the excess benefit may be imposed upon the organizational manager.

B. For purposes of the bill, ''excess benefit transaction'' generally means any transaction in which an economic benefit is provided by an applicable tax-exempt organization to or for the use of any disqualified person if the economic benefit provided exceeds the value of the consideration. The term ''excess benefit'' includes loans and certain private inurement.

C. Under the bill, ''excess benefit'' also includes the lending of money or other extension of credit between an applicable tax-exempt organization and disqualified person.

D. ''Disqualified persons'' would de defined under the bill as any person who was an organization manager at any time during the five-year period prior to the self-dealing